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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,680	02/25/2002	Donald Verna	PMP-204-A	3041
7590	11/25/2003		EXAMINER	
Andrew R. Basile Young & Basile, P.C. Suite 624 3001 West Big Beaver Road Troy, MI 48084			VANAMAN, FRANK BENNETT	
			ART UNIT	PAPER NUMBER
			3618	
DATE MAILED: 11/25/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/082,680	VERNA, DONALD
	Examiner Frank Vanaman	Art Unit 3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 September 2003.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4,8-10 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4,8-10 and 12-18 is/are rejected.
- 7) Claim(s) 19 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 February 2002 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_ .
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____                                    |

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### **Status of Application**

1. Applicant's amendment, filed September 8, 2003, has been entered in the application. Claims 1-4, 8-10 and 12-19 are pending, claims 14-19 having been added, claims 5-7 and 11 having been canceled.

### **Drawings**

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the two ramps in the top of the upper element (claim 16) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

### **Claim Rejections - 35 USC § 112**

3. Claim 16 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 16 refers to the top of the upper element as having two ramps. The specification, claims and drawings as originally filed in this application fail to provide support for such a limitation. See the original specification, for example, at page 4, paragraph 0022.

4. Claims 12-14<sup>are</sup> rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 12, the term "the hollow interior" is no longer provided with a clear antecedent basis, in view of the cancellation of claim 11 (note that the amendments to claim 1 do not appear to provide support for the term as currently recited in claim 12).

### **Claim Rejections 35 USC § 103**

5. The pertinent portions of 35 USC 103 may be found in a previous office action.

6. Claims 1-3 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lutz (DE 38 15 990). Lutz teaches a dolly made from four assembled corner members (2) interconnected by a tubular frame (3/4) which may receive a member having a rectangular shape, the corner members including upper (6) and lower (5) members fastened to one another with threaded fasteners (col. 2, lines 31-36) and

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provided with recesses so that the fastener heads are below the top surface of the upper member. Each upper and lower member has an additional inner hollow portion, the upper member may be provided with a pair of walls (8) for accommodating a rectangular (or other-shaped) member, which walls extend along the edges of the member, traversing the width continuously to and from respective ends, and thus including a center portion, of the member in both longitudinal and lateral directions, to the breadth claimed; the upper member also being optionally provided with a rectangular groove (10) having ramped portions and a lowermost portion (at the center thereof), the outer lower surface of the lower member including a mounting location for a top mounting portion of a caster (figures 1, 2, 4, 5; with figures 4 and 5 illustrating an edge of the caster mounting plate), upper and lower members having access apertures into which the tubular members are inserted, including through channels (e.g., those channels with open ends shown at the right side of the embodiment illustrated in figure 1), and channels which limit the travel of the tubular members (e.g., the front-facing channel of the rear corner members shown in figure 1, and the rear facing channel of the front corner members shown in figure 1), the limiting element formed so as to extend at least partially into the channel. The reference to Lutz fails to specifically teach the corner members as being made from a plastic material. Plastics are very old and well known in the manufacturing arts for their light weight and resistance to corrosion, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to make the corner members taught by Lutz from plastic materials for the purpose of facilitating a lightweight cart which does not rust or corrode easily.

7. Claims 4, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lutz in view of Liu (US 5,695,205). The reference of Lutz is discussed above and fails to teach the caster wheel as comprising a yoke, and a center post, wherein the center post is disposed in an aperture in the lower face of the lower corner member, the aperture extending into an internal dowel. Liu teaches a plastic wheeled carrier including casters (40) having a yoke portion and an upstanding post (not separately referenced), wherein the caster post is inserted into an aperture (in element 30, see figure 5 proximate numerals 301, 302), the aperture being provided with an internal

dowel. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a caster with an upstanding post, and a receiving aperture with internal dowel as taught by Liu to the corner members taught by Lutz for the purpose of allowing lower cost casters to be easily and quickly inserted and removed on the dolly of Lutz, facilitating construction with commonly available elements, and facilitating a faster assembly.

8. Claim 10, 15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lutz in view of Liu, and further in view of Roby et al. (US 4,077,644).

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lutz in view of Roby et al.

As regards claims 10, 18 and 19, the reference of Lutz as modified by Liu fails to specifically teach the fastener apertures as including internal dowel elements. As regards claims 12-14 the reference of Lutz fails to specifically teach the provision of reinforcing dowels which receive the fasteners.

Roby et al. teach a plastic cart construction wherein portions which are generally otherwise hollow are fastened together by a threaded fastener or bolt (36) which extends through an aperture in a dowel portion (see 35, 34 in figure 5, and 30 in figure 6). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide reinforcing dowels as taught by Roby and hollow out a further interior portion of the corner members of the dolly of Lutz (claims 12, 13) or of the corner members of the dolly of Lutz as modified by Liu (claim 10), for the purpose of providing a support which adequately accommodates the threaded fastener (e.g., Roby et al.'s element 36), while allowing the remainder of the structure to be substantially hollow, thus retaining strength while reducing weight, resulting in an advantageously lighter cart.

**Claims not rejected over the Prior Art.**

9. Claim 16 is not rejected as being anticipated by or unpatentable over the prior art currently of record, but this claim is not in condition for allowance in that it is not supported by the specification, claims and drawings of the application as originally filed.

### **Allowable Subject Matter**

10. Claim 19 is objected to as being dependent from a rejected base claim, but would be allowable if re-written into independent form and to include all limitations of the base claim and any intervening claims.

### **Response to Comments**

11. Applicant's comments concerning the reference to Lutz are noted but not persuasive. As regards the translation, the examiner has appended two machine translations of the pertinent portions of Lutz which were obtained through a very well known and free translation service provided on the Internet, no affidavit being necessary. The examiner expresses some surprise that applicant is not able to obtain translations of foreign documents which are commonly relied upon in the prosecution of patent applications, and further that applicant is unaware of such machine translation services, and would desire to argue a point which may be so easily verified on-line. Should the claim rejections be appealed to the Board of Patent Appeals and Interferences, a complete translation of the Lutz reference will be made of record in the application at that time. Applicant has argued that the provision of a wall as taught by Lutz as a stopping element 'will not provide a definite stop means for the tubular member in all conditions'. The examiner agrees, however no such recitation appears in the claims, and further it is not clear whether applicant is suggesting that applicant's own invention can provide 'a definite stop means ... *in all conditions*' [emphasis added]. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The Examiner agrees that Lutz fails to teach the particular ramp arrangement that applicant has set forth in newly submitted claim 16. Applicant's original application also fails to teach this limitation, and it is not clear why such a claim has been added. As regards applicant's comments concerning newly submitted claim 19, the examiner agrees that the material recited in claim 19 is not fairly taught by the prior art, and claim 19 would indeed be allowable if re-written in independent form to include all limitations of the base claim and any intervening claims.

### Conclusion

12. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 703-308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is 703-308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450,

Or faxed to one of the following fax servers:

Regular Communications/Amendments: 703-872-9326  
After Final Amendments: 703-872-9327  
Customer Service Communications: 703-872-9325

F. VANAMAN  
Primary Examiner  
Art Unit 3618



11/24/03